

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HOMER E. HAWKINS,

No. C 07-5644 SI (pr)

Plaintiff,

ORDER OF DISMISSAL

v.

ROBERT DOYLE,
Marin County Sheriff; et al.,

Defendants.

On March 4, 2008, the court ordered plaintiff, Homer Hawkins, to show cause why this action should not be dismissed under 28 U.S.C. § 1915(g), which provides that a prisoner may not bring a civil action in forma pauperis under 28 U.S.C. § 1915 "if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). The order identified three prior dismissals that appeared to count under § 1915(g) and ordered Hawkins to show cause why pauper status should not be denied and this action dismissed. The order further stated that Hawkins also could avoid dismissal by paying the filing fee by the deadline. Order To Show Cause Re. Contemplated Dismissal, p. 3.

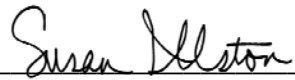
Hawkins did not pay the filing fees, did not show that any of the prior dismissals could not be counted under § 1915(g), and did not otherwise show cause why this case could not be dismissed in his response filed March 27, 2008. The court finds that the three prior dismissals identified in the order to show cause count as dismissals for purposes of § 1915(g). Hawkins

1 does not come within any exception to the applicability of § 1915(g).

2 Accordingly, Hawkins' in forma pauperis application is DENIED and this action is
3 dismissed pursuant to 28 U.S.C. § 1915(g). The dismissal is without prejudice to Hawkins
4 asserting his claims in an action for which he pays the full filing fee at the time he files his
5 complaint. The clerk shall close the file.

6 IT IS SO ORDERED.

7 Dated: April 18, 2008


SUSAN ILLSTON
United States District Judge